



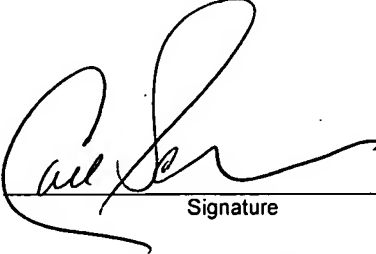
Doc Code: AP-PLE-REQ

PTO/SB/33 (11-08)

Approved for use through 12/31/2008. OMB 0651-0031

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) SHO-0055	
	Application Number 10/697,281-Conf. #8441	Filed October 31, 2003	
	First Named Inventor Kazuo OKADA		
	Art Unit 3714	Examiner C. E. Rendon	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number 29,211</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <div style="text-align: right;"> _____ Signature _____ Carl Schaukowitch Typed or printed name _____ (202) 955-3750 Telephone number _____ December 30, 2008 Date</div>			
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input type="checkbox"/> *Total of 1 form is submitted.</p>			



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Kazuo OKADA

Application No.: 10/697,281

Filed: October 31, 2003

For: GAMING MACHINE COPING WITH
AN ABNORMAL IMAGE SIGNAL (as
amended)

Attorney Docket No.: SHO-0055

Examiner: C. E. Rendon

Art Unit: 3714

Confirmation No.: 8441

ARGUMENTS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Claims 5, 7, 9-11, 13-17, 19-22 and 24-26 are rejected under 35 USC 103 (a) (and not 35 USC 102 (a) as inadvertently indicated) as being unpatentable over Loose et al. (U.S. Patent No. 6,517,433) in view of Weatherford et al. (U.S. Patent No. 4,206,920) and Yoseloff (U.S. Patent No. 6,299,170). The rejection is respectfully traversed.

In rejecting claims under 35 U.S.C. §103, the United States Patent and Trademark Office bears the initial burden of presenting a prima facie case of obviousness. Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. "A prima facie case of obviousness is established if the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art." In re Bell, 991 F.2d 781, 782, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993) quoting In re Rinehart, 531 F.2d 1048, 1051, 189 U.S.P.Q. 143, 147 (CCPA 1776).

Examiners must make appropriate rejections regarding the obviousness of claimed inventions in light of the Supreme Court's decision in KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385 (2007). The familiar factual inquiries announced by the Supreme Court in its much earlier decision, Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), remain the basis for every decision regarding obviousness, i.e, Examiners will continue to consider:

- (1) the scope and content of the prior art,
- (2) the differences between the claimed invention and the prior art,
- (3) the level of ordinary skill in the pertinent art, and

(4) objective evidence relevant to the issue of obviousness.

Guidelines promulgated by the United States Patent and Trademark Office (Federal Register, volume 72, number 195, October 10, 2007) note that Patent Examiners must continue to explain the reasoning that leads to a legal conclusion of obviousness when rejecting claims on that ground. The reasoning may still include the established Court of Appeals for the Federal Circuit standard that a claimed invention may be obvious if the examiner identifies a prior art teaching, suggestion, or motivation (TSM) to make it. However, in keeping with the KSR decision, the guidelines explain that there is no requirement that Patent Examiners use the TSM approach in order to make a proper obviousness rejection. Furthermore, the guidelines point out that even if the TSM approach cannot be applied to a claimed invention that the invention may still be found obvious.

To help Examiners make obviousness rejections that are supported by appropriate facts and reasoning, the guidelines identify a number of rationales suggested by the Supreme Court in the KSR decision. For each rationale, the Guidelines explain the underlying factual findings, and provide guidance about how to reason from the facts to the legal conclusion of obviousness.

The Examiner must resolve the Graham factual inquiries. Based upon the guidelines, the Examiner must then articulate the following:

(1) a finding that the prior art included each element claimed although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference;

(2) a finding that one of ordinary skill in the art could have combined the elements as claimed by known methods, and that in combination, each element in the early would have performed the same function as it did separately;

(3) a finding that one of ordinary skill in the art would have recognized that the results of the combination were predictable; and

(4) whatever additional findings based on the Graham factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.

It is respectfully submitted that the Examiner has failed to find that the prior art includes each claimed element as required under paragraph (1) set forth above. Claims 5, 11, 17 and 22 are directed to a gaming machine. Claims 10, 16, 21 and 26 are directed to a

display device for a gaming machine. Claims 5, 10, 11, 16, 17 and 21 recite an image state keeping device and recite that the image state keeping device:

1. monitors a signal of an image fed from the display control device,
2. detects whether the signal is in a normal state thereby rendering the image as a normal image or an abnormal state thereby rendering the image as an abnormal image being different from the normal image, and
3. controls the display device such that when the image state keeping device detects that the signal is in the abnormal state, the display device is controlled to display the image as the normal image.

It is respectfully submitted that none of the applied art, alone or in combination, teaches or suggests the features of claims 5, 10, 11, 16, 17 and 21. Specifically, it is respectfully submitted that the applied art, alone or in combination, fails to teach or suggest an image state keeping device having the combination of features 1., 2. and 3. set forth immediately above.

Thus, it is respectfully submitted that one of ordinary skill in the art could not combine the features of the applied art to arrive at the claimed invention because the applied art is devoid of all the features of the claimed invention. As a result, it is respectfully submitted that claims 5, 10, 11, 16, 17 and 21 are allowable over the applied art.

Claims 22 and 26 recite an image signal control device and a transparent image display device. Claims 22 and 26 recite that the image signal control device

1. receives a signal of an image from the display control device to display the image on the display device,
2. detects whether the signal is in a normal state thereby rendering the image as a normal image or an abnormal state thereby rendering the image as an abnormal image being different from the normal image, and
3. controls the display device such that when the image signal control device detects that the signal is in the abnormal state, the display device is controlled to display the image as the normal image.

Claims 22 and 26 also recite that a transparent image display device displays an image of relatively high transparency on the display device when the image signal control device detects abnormality of the signal of the image such that the relative high transparency of the image is sufficient to enable a player to see through the image and view at least one of the plurality of symbols on a front-most portion of the reel.

It is respectfully submitted that none of the applied art, alone or in combination, teaches or suggests the features of claims 22 and 26. Specifically, it is respectfully submitted that the applied art, alone or in combination, fails to teach or suggest:

A. an image signal control device that

1. receives a signal of an image from the display control device to display the image on the display device,
2. detects whether the signal is in a normal state thereby rendering the image as a normal image or an abnormal state thereby rendering the image as an abnormal image being different from the normal image,
3. controls the display device such that when the image signal control device detects that the signal is in the abnormal state, the display device is controlled to display the image as the normal image, and

B. a transparent image display device that

1. displays an image of relatively high transparency on the display device when the image signal control device detects abnormality of the signal of the image such that the relative high transparency of the image is sufficient to enable a player to see through the image and view at least one of the plurality of symbols on a front-most portion of the reel.

Thus, it is respectfully submitted that one of ordinary skill in the art could not combine the features of the applied art to arrive at the claimed invention because the applied art is devoid of all the features of the claimed invention. As a result, it is respectfully submitted that claim 22 and 26 are allowable over the applied art.

By contrast, Loose teaches adjusting the appearance of the video image in terms of transparency, translucency or opacity depending on the purpose of the video image, Weatherford teaches an emergency power supply to provide current in the event of power failure and Yoseloff teaches saving image patterns in the event the main power supply is disconnected from the card-game apparatus, as correctly set forth by the Examiner. Combining these features, however, would not result in the claimed features recited in claims 5, 10, 11, 16, 17, 21, 22 or 26 as discussed above because the applied art is devoid of the features recited in these claims.

It is respectfully submitted that the Examiner has failed to find that the prior art includes each claimed element as required under paragraph (1) related to the Graham factual inquiries as set forth and discussed above. Therefore, it is respectfully submitted that

none of the applied art, alone or in combination, teaches or suggests all of the claimed elements.

Further, it is respectfully submitted that since the Examiner has failed to find that the prior art includes each claimed element of the independent claims, paragraphs (2), (3) and (4) stated above cannot be satisfied.

Based upon the above, it is respectfully submitted that the Examiner cannot support the Graham factual inquiries as required under KSR.

The dependent claims depend from their respective independent claims. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reasons their respective independent claims are allowable as well as for the features they recite.

Withdrawal of the rejection is respectfully requested.

Claims 12, 18 and 23 are rejected under 35 USC 103 (a) as being unpatentable over Loose in view of Weatherford and Yoseloff and further in view of Walker (U.S. Patent Application Publication No. 2003/0224852). The rejection is respectfully traversed.

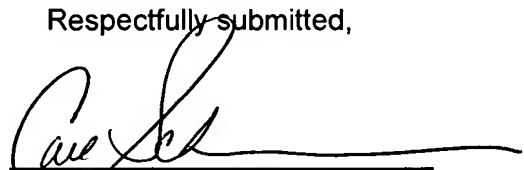
The dependent claims depend from their respective independent claims. Thus, it is respectfully submitted that the dependent claims are allowable at least for the reasons respective independent claims are allowable as well as for the features they recite.

Withdrawal of the rejection is respectfully requested.

Respectfully submitted,

Date: December 30, 2008

By:


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Enclosure(s): Notice of Appeal
 Pre-Appeal Brief Request for Review